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Conference

1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

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3 UNITED STATES OF AMERICA,

4 v.

13 CR 0026 (JMF)

5 SALVADOR MEDINA,

6 Defendant.

7 -----x

8 New York, N.Y.

9 April 3, 2013

3:33 p.m.

10 Before:

11 HON. JESSE M. FURMAN,

12 District Judge

13
14 APPEARANCES

15 PREET BHARARA,

16 United States Attorney for the
Southern District of New York

17 ANDREA SURRATT

Assistant United States Attorney

18 ALAN NELSON

19 Attorney for Defendant

20 ALSO PRESENT: DAVID MINTZ, Spanish Interpreter

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1 (In open court)

2 THE DEPUTY CLERK: Matter of the United States v.
3 Salvador Medina, 13 CR 26.

4 Counsel, state your name for the record.

5 MS. SURRATT: Good afternoon, your Honor.

6 Andrea Surratt for the government, on behalf of my
7 colleague, AUSA Adam Fee.

8 THE COURT: Good afternoon, Ms. Surratt.

9 MR. NELSON: Good afternoon, your Honor.

10 Alan Nelson appearing on behalf of Salvador Medina.

11 Mr. Medina is seated to my left.

12 THE COURT: Good afternoon, Mr. Nelson.

13 Good afternoon, Mr. Medina.

14 So I have been advised that the defendant might be
15 prepared to plead guilty, but I have since been advised that
16 all the ducks are not yet in a row, so that is not the plan
17 today. There were not any motions filed by the March 29th
18 deadline, so consistent with my promise at the last conference,
19 my intention is to set a trial date at this time.

20 Is there anything you want to raise with me before I
21 do that?

22 MR. NELSON: Your Honor, while I fully anticipate that
23 in relatively short order there will be a disposition, I would
24 ask the Court to possibly schedule a status conference
25 approximately a month from now for purposes of that, unless the

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1 Court would prefer me to contact the Court's deputy to schedule
2 such.

3 THE COURT: I am available if and when there's a
4 change of plea. And there's no need to schedule -- my
5 intention is to set a trial date right now. If between now and
6 then there is a disposition, then all you need to do is contact
7 my chambers, and I will bring you in, and we will deal with the
8 change of plea at that time.

9 But, in the meantime, I don't see any need for any
10 intermediate conference dates. We'll have a trial date. If
11 there is no plea before then, we'll go to trial.

12 MR. NELSON: Very well, your Honor.

13 THE COURT: I understand my deputy had spoken to you
14 about when you would want a trial, and that you had jointly, I
15 guess, proposed October as a date; is that correct?

16 MR. NELSON: That's correct, Judge.

17 MS. SURRETT: That works for the government, your
18 Honor.

19 THE COURT: And does Mr. Fee know how long a trial
20 this matter would take if it came to that?

21 MS. SURRETT: I believe, your Honor, the government's
22 case would take a week or less.

23 THE COURT: So I'm going to set the trial to start on
24 Monday, September 9th.

25 MR. NELSON: I had requested October --

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1 THE COURT: Oh, I'm sorry.

2 MR. NELSON: I have a September trial date in the
3 Eastern District.

4 THE COURT: That was entirely my -- I apologize.

5 I'm going to set a trial for Monday, October 7th. And
6 we will start that morning at 9 a.m. If the case has not been
7 resolved by a plea a month or two out, I will issue an order
8 setting deadlines for pretrial filings and the like. But other
9 than that, we will start trial on Monday, the 7th.

10 Is there anything else we need to deal with today?

11 MS. SURRATT: Your Honor, the government requests an
12 exclusion of time between now and October 7th, in order to
13 allow the parties to continue to discuss a possible pretrial
14 disposition of this matter.

15 THE COURT: Mr. Nelson?

16 MR. NELSON: Your Honor, I have no objection to the
17 exclusion of time.

18 I do have one request of the Court, and that is, given
19 the nature of the plea discussions, they have been ongoing, I
20 had not met the Court's deadline with respect to motions.
21 While I'm not anticipating making such, in the unlikely event
22 that there is a change in status, might I write to the Court
23 and explain that and make a plea between now and a relatively
24 short time to make such motions only to protect the record in
25 that regard at this point, although I do not anticipate that

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1 would be the case.

2 THE COURT: Okay. You're certainly welcome to make
3 any application you want at any time, with the understanding
4 that I may deny it. But that being said, I do want to have a
5 sense of what the timing would be in the unlikely event that
6 you would make this application; because what I don't want to
7 do is get a bona fide motion on the eve of trial that would
8 result in the trial date changing, because that trial date is
9 not going to change. And I want to stress that to you and I
10 stress that to Mr. Medina, as well. October 7th is a firm
11 trial date in this matter, and we will start trial on that
12 date. So in the unlikely event that there are issues with
13 motions or issues with counsel, for example, those need to be
14 teed up well before that date so that they're resolved and we
15 can start on October 7th.

16 MR. NELSON: Well understood, your Honor. It would be
17 prior to May 15th that I would submit any letter to the Court.

18 THE COURT: Prior to May 15th?

19 MR. NELSON: Yes.

20 THE COURT: Okay. Well, I will rule on it if or when
21 a letter is submitted to me; but certainly if it is done before
22 May 15th, I would think that would give us ample time to deal
23 with it.

24 In the meantime, I will grant the application to
25 exclude time between now and October 7th. I find that the ends

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1 of justice served by excluding that time outweigh the interests
2 of the public and the defendant in a speedy trial, in order to
3 allow the parties to continue their discussions about a
4 potential disposition of the case without trial, and to allow
5 both sides to prepare for that trial, as well as to allow
6 Mr. Nelson to review and consider any possible motions that he
7 would want to bring in the event that discussions broke down,
8 and to make an application for permission to bring such
9 motions.

10 Is there anything else we need to deal with?

11 MS. SURRETT: Not from the government, your Honor.

12 MR. NELSON: Nothing further from the defense, Judge.

13 THE COURT: Hang on one second.

14 (Pause)

15 THE COURT: All right. Then in that case, I will stay
16 on the bench, but this matter is adjourned.

17 Thank you.

18 MR. NELSON: Thank you, Judge.

19 Have a good day.

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